

OA 91 Criminal Complaint

United States District Court

NORTHERN

DISTRICT OF

FILED

JUN 4 2008

RICHARD W. WIEKING
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

JOEL GUADALUPE DUARTE-ANAYA

AKA: Joel Guadalupe, Joseph Mendez, Joel Anaya,

Jose Duarte, Carlos Diaz

Case Number: **3 08 70324**

ORIGINAL

BZ

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about April 1, 2008 in Marin County, in the Northern District of California defendant(s) did,
(Track Statutory Language of Offense)

SEE ATTACHMENT "A" ATTACHED HERETO AND INCORPORATED HEREIN

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT MADE A PART HEREOF

PENALTIES: Imprisonment for not more than twenty (20) years and/or a fine of not more than two-hundred fifty thousand (\$250,000.00) dollars, a one-hundred (\$100.00) dollar special assessment, and three (3) years supervised release.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved

As To

Form: Allison Marston Danner

AUSA

[Signature]
Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

at

San Francisco, California

City and State

4 June 08
HONORABLE BERNARD ZIMMERMAN U.S. MAGISTRATE JUDGE

Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
COUNTY OF SAN FRANCISCO)

The undersigned, being duly sworn, do hereby state:

I. INTRODUCTION

1. My name is Polly E. Kaiser, and I have been a Deportation Officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately five years. I am currently assigned under the Field Office Director, San Francisco, California (FOD/SF) to the Detention and Removal Operations (DRO) division. I am presently attached to the Prosecutions Unit of the Criminal Alien Program, a group that is responsible for enforcing federal criminal statutes involving criminal aliens who unlawfully reenter the United States.

2. As set forth below, I believe that probable cause exists to support a complaint against Joel Guadalupe DUARTE-ANAYA (aka: Joel Guadalupe, Joseph Mendez, Joel Anaya, Jose Duarte, Carlos Diaz) for a violation of Title 8, United States Code § 1326. The facts set forth in this Affidavit are based on my review of the official Immigration Service file (A35 910 175) and the automated criminal records (CII: A08413311 and FBI: 922085FA7) of Joel Guadalupe DUARTE-ANAYA, my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all the facts related to Joel Guadalupe DUARTE-ANAYA that are known to me.

II. ELEMENTS OF THE OFFENSE

3. The elements of the offense, illegal entry into the United States after deportation, in violation 8 U.S.C. § 1326 are the following:

- a. Defendant was deported from the United States;
- b. After deportation, defendant voluntarily entered the United States;
- c. When defendant entered the United States, he knew he was entering the United States and, thereafter, knowingly remained in the United States;
- d. Defendant was found in the United States without having obtained the consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States; and
- e. Defendant was an alien at the time he entered and was found in the United States.

III. STATEMENT OF PROBABLE CAUSE

4. Joel Guadalupe DUARTE-ANAYA is a 40 year-old male who is a native and citizen of Mexico, who last entered the United States illegally by crossing the international border with Mexico on or about January 1, 2008 via El Paso, Texas, and knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.
5. The official Immigration Service file for Joel Guadalupe DUARTE-ANAYA contains four executed Warrants of Removal. The most recent Warrant of Removal indicates that Joel Guadalupe DUARTE-ANAYA was last removed from the United States to Mexico at San Ysidro, California on or about June 27, 2007.
6. The second executed Warrant of Removal for Joel Guadalupe DUARTE-ANAYA indicates that he was removed from the United States to Mexico at Calexico, California on November 20, 1999.
7. The third executed Warrant of Removal for Joel Guadalupe DUARTE-ANAYA indicates that he was removed from the United States to Mexico at Calexico, California on November 23, 2001.
8. The fourth executed Warrant of Removal for Joel Guadalupe DUARTE-ANAYA indicates that he was removed from the United States to Mexico at Paso Del Norte Bridge, Texas on March 9, 2005.
9. On April 1, 2008, Immigration and Customs Enforcement Officers encountered Joel Guadalupe DUARTE-ANAYA while he was incarcerated at San Quentin State Prison. An immigration detainer was filed on April 11, 2008, by Immigration Enforcement Agent Johnny Chao.
10. Also, on April 1, 2008 a Sworn Statement was taken of Joel Guadalupe DUARTE-ANAYA by Immigration and Enforcement Agent Johnny Chao after Joel Guadalupe DUARTE-ANAYA was advised of his *Miranda* rights and the right to speak with the consular or diplomatic officers of his country of citizenship. Joel Guadalupe DUARTE-ANAYA waived his rights and provided a sworn statement in which he admitted that he was born in and a citizen of Mexico and that he had been previously deported. Joel Guadalupe DUARTE-ANAYA also admitted that he had returned to the United States without having first obtained permission to re-enter from either the Secretary of the Department of Homeland Security or the Attorney General of the Department of Justice.
11. On June 2, 2008, Joel Guadalupe DUARTE-ANAYA was released to Immigration and Customs Enforcement (ICE) from San Quentin State Prison. On the same date, at the ICE San Francisco District Office located in San Francisco, California, Joel Guadalupe DUARTE-

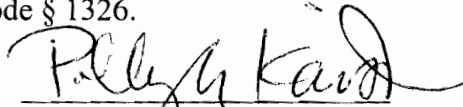
ANAYA's fingerprints and photos were submitted into the Auto Biometric Identification System (IDENT). IDENT information confirmed Joel Guadalupe DUARTE-ANAYA's identity under Fingerprint Identification Number (FINS) 18251914.

12. On June 3, 2008, a full set of rolled fingerprints belonging to Joel Guadalupe DUARTE-ANAYA were submitted to the Automated Fingerprint Identification System (AFIS) for further verification of identity. Along with the full set of prints, a right index print from each of the four Warrants of Removal for Joel Guadalupe DUARTE-ANAYA and the right and left index prints from the Sworn Statement taken from Joel Guadalupe DUARTE-ANAYA dated April 1, 2008 were all submitted for comparison. The fingerprint examiner positively identified the fingerprints as belonging to Joel Guadalupe DUARTE-ANAYA (FBI Record No. 922085FA7).

13. There is no indication in the official files of the United States Immigration and Customs Enforcement that DUARTE-ANAYA has applied for, or been granted, the requisite permission to re-enter the United States from either the Attorney General of the United States or the Secretary of the Department of Homeland Security. Further, in his sworn statement, Joel Guadalupe DUARTE-ANAYA (aka: Joel Guadalupe, Joseph Mendez, Joel Anaya, Jose Duarte, Carlos Diaz) admitted that he had not applied to the Attorney General or the Secretary of the Department of Homeland Security for permission to re-enter the United States after deportation.

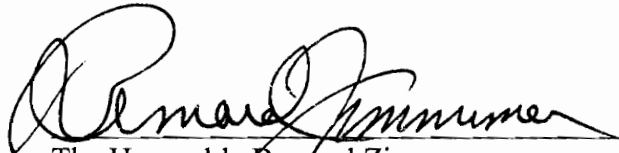
IV. CONCLUSION

14. On the basis of the above information, I submit that there is probable cause to believe that Joel Guadalupe Duarte-Anaya, illegally reentered the United States following deportation, in violation of Title 8, United States Code § 1326.



Polly E. Kaiser
Deportation Officer U.S. Department of Homeland
Security
U.S. Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 4 day of June 2008.



The Honorable Bernard Zimmerman
United States Magistrate Judge
Northern District of California
San Francisco, California

ATTACHMENT "A"

On or about April 1, 2008, the defendant, Joel Guadalupe DUARTE-ANAYA (AKA: Joel Guadalupe, Joseph Mendez, Joel Anaya, Jose Duarte, Carlos Diaz), an alien having been previously deported from the United States, was found in Marin County, in the State and Northern District of California, without having obtained express consent for reapplication for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 8, United States Code, Section 1326).

ATTACHMENT "A"

On or about May 24, 2008, the defendant, Jaime Salcedo-Mendoza, a/k/a Julian Mallado, a/k/a Ricardo Zuniga, an alien having been previously deported from the United States, was found in San Mateo County Jail, in the State and Northern District of California, without having obtained express consent for reapplication for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557).